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COMMITTEE ON FISHERIES

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REPORT ON THE DEVELOPMENT OF A COMPREHENSIVE RECORD OF FISHING VESSELS

DEVELOPMENT OF A COMPREHENSIVE RECORD OF FISHING VESSELS, REFRIGERATED TRANSPORT VESSELS, SUPPLY VESSELS AND BENEFICIAL OWNERSHIP

BACKGROUND

1. The question of keeping records of fishing vessel was raised during the development of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement), which was adopted by the FAO Conference in 1993 and lays much more emphasis on flag State registry functions than the Fish Stocks Agreement that followed in 1995. The Compliance Agreement, for example, has detailed provisions requiring national administrations to maintain a record of fishing vessel information, including details of vessels scrapped or decommissioned or that have had their licenses withdrawn.

2. With regard to Illegal, Unreported and Unregulated (IUU) fishing, the International Maritime Organization and FAO convened the first meeting of a Joint FAO/IMO *ad hoc* Working Group in October 2000 that recognized the importance of fishing vessels being registered and endorsed the need to ensure that the flag State links the registration of a fishing vessel with its authorization to fish and urged closer collaboration between relevant agencies in national administrations. The *ad hoc* Working Group also agreed that consideration should be given to how the IMO number scheme might be applied to fishing vessels not currently subject to this requirement in order to enable vessels to be traced regardless of changes in registration or name over time.

3. The first substantive meeting of the Ministerial-led Task Force on IUU Fishing on the High Seas that took place in Paris on 9 March 2005 agreed, *inter-alia,* to establish a global information system on high seas fishing vessels in the form of a publicly available international data base of information relating to the global high seas fishing fleet. It was noted that this might form one of the core activities of the enhanced MCS Network and it was suggested that its Secretariat also consider the feasibility of building on the European Quality Shipping Information System *(Equasis)*.

4. Thereafter, the 2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing, adopted by the Ministers includes a call *"to develop a comprehensive record of fishing vessels within FAO, including refrigerated transport vessels and supply vessels, that incorporates available information on beneficial ownership, subject to confidentiality requirements in accordance with national law"*. Thereafter, the Fisheries Department of FAO undertook a study (the Study) to determine the feasibility and viability of developing such a comprehensive record, hereinafter referred to as the "Global Record".

IMPLEMENTATION OF THE STUDY

5. The Study was carried out on the understanding that if a Global Record of fishing vessels, including refrigerated transport vessels and supply vessels were to be developed by FAO, it would draw on information held by flag States in relation to the public law function of registration as well as from other records held by such States for vessels not required to be registered under national legislation.

6. Special attention was given through the Study to existing related global, regional and national data bases and record keeping systems containing particulars of fishing vessels, refrigerated transport vessels and supply vessels. In this regard the Study confirmed that there is no complete record of the numbers of fishing vessels in the world and that there is also no complete, single source of information from which it would be possible to trace individual vessels and ownership. Likewise, there is no single source of information on the particulars of merchant ships, of all sizes, and their ownership.

7. A review of regional fisheries management organizations (RFMOs) was carried out during the Study to determine the extent to which the information stored in relation to records/registers of vessels held by them was readily available as well as to determine the linkages in place to ensure enforcement. The Study found that the RFMOs maintain lists of vessels that are authorized to fish in their respective regulatory areas and that the information stored in relation to the particulars of a vessel and its ownership is drawn from the certificate of registry of the vessel. In general, unclassified information such as lists of authorized vessels is readily available to Parties and non-Parties alike.

8. In addition to the information concerning fisheries legislations contained in FAO's Fishlex data base, internet searches also gave a positive indication that the requirement for registration and or licence to fish is widely included in national legislations. It was noted, however, that a number of countries do not have a requirement to register very small vessels nor to require vessels limited to fishing within the territorial seas to be registered.

9. The Study drew on the experience gained through the FAO field programme and noted that data bases are maintained by a large number of fisheries administrations and, where applicable, maritime administrations. Furthermore, the particulars of fishing vessels held in records are compatible with the minimum requirements for a global record and, in addition, such data bases contain information on fishing vessels of <u>all</u> sizes.

10. The Study also drew on the experience gained by FAO through its collaboration with the IMO in relation to initiatives to promote ratification of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels. In this regard, seminars

were conducted in China and Ecuador during which it was confirmed that both in Asia and South America, suitable records on fishing vessels of all sizes are maintained. In both cases, however, it was evident that there was a need to have a common approach to the register of fishing vessels since few actually record "length" as defined in the Torremolinos Protocol and the definitions of other key particulars, such as tonnage, varies within the regions.

11. With regard to the identification of vessels, the Study noted that it is not uncommon for vessels entitled to fly the flag of the same State, but registered in different ports, to be given the same name. In addition, the name of a vessel could change with change of owner or through a demise charter party and or change of flag, thus the name, *per se*, is not a unique identifier.

12. The Study also examined the issue of beneficial ownership which the Ministerial Meeting had drawn attention to and determined that the information required by an administration at time of registration concerns the name of the owner or owners and the shares held, as well as details of priorities between persons holding security interests over the vessel such as mortgages, liens and other encumbrances.

13. With regard to support vessels such as refrigerated carriers and supply ships, the Study noted that not all of the ships falling under those categories are dedicated to the support of fishing operations and for this reason it would not be possible to establish a factual record of such vessels of all sizes based on information held in the register of ships of a flag State. The Study found, however, that both Lloyds Register of Shipping (LR) and *Equasis* contain adequate information in relation to refrigerated cargo ships and bunkering ships of 100 GT and over.

14. The Study took note of initiatives at IMO concerning the IMO Ship Identification Number Scheme that had been introduced in 1987 through the adoption of Assembly Resolution A. 600 (15) as a measure to enhance ship safety and security and made mandatory at a later date under the International Convention for the Safety of Life at Sea (SOLAS). That number remains unchanged upon transfer of the ship to another flag and is inserted in the ship's certificates and displayed on the hull for certain categories of ships.

15. The Study noted that the establishment of a Global Record would undoubtedly be influenced by the outcome of developments at IMO since current deliberations at that organization indicate that fishing vessels and pleasure vessels are unlikely to be exempt from future SOLAS amendments in relation to maritime transport security.

JUSTIFICATION FOR A GLOBAL RECORD

16. Up-to-date national records, sub-regional and regional records of vessels that are readily accessed through a Global Record system would greatly assist fisheries managers and those concerned with monitoring, control and surveillance in general, as well as, those combating IUU Fishing in particular. It is foreseen that with the commitment of States to provide particulars of fishing vessels and their ownership, a Global Record would facilitate the work of enforcement officers.

17. Access to such records (in the form a Global Record) would also be beneficial to States exercising port State control as proposed at COFI 2005 as a means of combating IUU fishing in a more substantive manner given the lack of agreed binding measures, or as a means of facilitating the enforcement of binding measures, in the event such measures are developed. In addition, coastal States offering access agreements and responsible flag States, agreeing to their vessels entering into access agreements, would be able to make a more reasonable assessment of the impact on the fisheries resources that the vessels may make.

18. Parties to the Compliance Agreement could make use of a section within a Global Record on vessels that are capable of fishing in the high seas, in order to obtain additional information on vessels sighted in regulatory areas or known to have landed fish, alleged to have been caught in a regulatory area. Similarly, the RFMOs would have reason to make use of such a record for the

same reasons. Furthermore, RFMOs would benefit from sub-directories within the Global Record containing data in relation to vessels flagged in the individual region/sub-region, as well as vessels having authorization to fish in waters of States other than those of the flag State; the latter requirement to include vessels so authorized and having the flag of a non-coastal State of the region/sub-region.

19. COFI would be better served with improved information on fleet capacity and distribution of effort. Similarly, the World Bank and Regional Development Banks would benefit from more accurate fleet information in assessing the effect of additional fishing capacity in the subject country/sub-region/region, as well as new investment in high seas fisheries.

20. Given the obligation of States Parties under UNCLOS to maintain a register of vessels as set out in Part VII (High Seas), as well as the provisions of the Fish Stocks Agreement for flag States to maintain a record of fishing vessels authorized to fish on the high seas and the relevant provisions of the Compliance Agreement, the development of a Global Record of vessels that are capable of fishing on the high seas is fully justified.

21. The FAO Fisheries Department would be in a much better position to discharge its responsibilities in relation to the application of the Code of Conduct and its programme of work related to fisheries management in general and in particular to address fishing capacity issues, as well as IUU fishing. In this regard, however, it should be noted that a Global Record would be a much more powerful tool if port State control were to be introduced to cover fishing vessels and a parallel data base established.

22. In general fisheries managers would have a ready tool in support of efforts to implement the Code of Conduct for Responsible Fisheries, International Plans of Action and the provisions of legal instruments such as the Fish Stocks Agreement as well as, to a certain extent, identifying vessels capable of deep sea fishing.

CONCLUSIONS

23. The main conclusion reached through the Study is that the development of a Global Record is technically feasible. It is stressed, however, that flag States and economic entities must be prepared to make a firm commitment to accept relevant recommendations of the Study concerning the provision of particulars of vessels and their ownership that would be essential, both administratively and technically, to ensure a workable and useful system. It is also stressed that the cost of the development phase would be in the order of US$ 2.5 million over a period of 3.5 years for which extra budgetary funding would be required. Thereafter, the cost of the long-term maintenance phase would be in the order of US$ 600 000 annually.

24. With regard to the name of a vessel, for the reasons given in paragraph 11, the Study concluded that the name is not a unique identifier and that there would be a need to introduce a system through which any vessel could be clearly identified over time, irrespective of change of name, ownership or flag.

25. In relation to the concept of a unique method to identify vessels over time, the Study recognized the advantages that would accrue from the use of the LR Number (that forms the basis for the IMO number and is obligatory for certain classes of fishing vessels), which would include, *inter-alia*, that

- the identification number remains with the vessels irrespective of change of name or ownership and/or flag thus it provides a possibility to follow the history of a vessel;
- it is common practice for the LR/IMO number to be included in vessel documentation; and,

- that the use of the LR/IMO number would also allow ready comparison with other data bases, such as LR, *EQUASIS*, RFMOs and such port State control records where the number is included in the search criteria.

26. The Study came to the conclusion that the format used for the High Seas Vessels Agreement Record (HSVAR) data base could be useful in the development of a Global Record, with slight amendments, to allow links to external data bases such as *Equasis*, RFMOs and future arrangements for the port State control of fishing vessel for fisheries management purposes, as well as for control in relation to maritime conventions as they apply or may be applied to fishing vessels.

27. The Study also came to the conclusion that there would most likely be a need for flag States to revisit national legislation in order to ensure that a requirement to provide data for insertion in a Global Record would be binding and that the adoption of a means to uniquely identify a vessel over time would be mandatory. Similarly, the requirement to enter the unique identifier in a certificate of registry and/or record of a vessel would also have to be mandatory.

RECOMMENDATIONS

28. Should it be decided to develop a Global Record, it should be confined to decked fishing vessels of 10 tonnes and over that operate in bays, sounds, seas and oceans. At a later stage, and on the basis of experience gained, consideration could be given to a parallel record of vessels operating in inland waters.

29. Furthermore, given the large numbers of fishing vessels in the world, a phased approach should be followed commencing with all support and fishing vessels over 100 GT to be followed by support and fishing vessels of selected intermediate tonnage measurements.

30. The name of the owner or owners to be shown in a Global Record should be the same as given in the certificate of registry and/or fishing license as the case may be.

31. A more unique form of identification that does not change with age, name, ownership or flag, should be established for each vessel. Furthermore, such an identification number would have to be included in the certificate of registry and/or fishing licence as the case may be, which would require action by the flag State. In this regard, the Study recommends that for vessels of 100 GT and over, the LR numbering system should be adopted since this is the basis for the IMO number which is mandatory for certain classes of merchant ships and fishing vessels under the SOLAS Convention.

32. For vessels of less than 100 GT (fishing and support vessels), consideration would have to be given to the allocation of a number by FAO or other competent UN organization. The number so given will have to be added to the vessel's certificates and documentation by the flag State and it would have to be a mandatory requirement, not voluntary.

33. If the basic elements of the Compliance Agreement and its High Seas Vessel Agreement Record (HSVAR)were to be considered as a basis for a wider application of a tool to combat IUU fishing, such a data base could, if modified, be compatible with the *EQUASIS* model. It could then be linked to *EQUASIS* in order to obtain additional information on refrigerated transport vessels and supply vessels that would include details of port State control records. The HSVAR could also be modified to provide links to the RFMOs and a port State control network for fishing vessels for fisheries management purposes, should that be developed in the future.

34. The Study also recommends that should it be the wish of COFI to develop a Global Record, the management and maintenance of the long-term maintenance of the HSFVR should be an integral part of such arrangements in relation to technical support and funding.